

*Our response:* We recognize that illegal take has an impact on some polar bear populations, especially for the Chukchi Sea population and possibly for other populations in Russia. We also believe that a better assessment of the magnitude of illegal take in Russia is needed, and that illegal harvest must be considered when developing sustainable harvest limits. We also conclude that increased use of coastal habitat by polar bears could increase the impact of illegal hunting in Russia, by bringing bears into more frequent contact with humans. However, available scientific information indicates that poaching and illegal international trade in bear parts do not threaten the species throughout all or a significant portion of its range.

*Comment 19:* The Service should not rely solely on the Bilateral Agreement to remedy illegal take in Russia. Listing under the Act is necessary to allow for continued legal subsistence hunting.

*Our response:* As discussed in the "Summary of Factors Affecting the Polar Bear" section of this rule, we have found that harvest and poaching affect some polar bear populations, but those effects are not significant enough to threaten the species throughout all or a significant portion of its range. To the extent that poaching is affecting local populations in Russia, the Service believes that the best tool to address these threats is the Agreement between the United States of America and the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population (Bilateral Agreement), which was developed and is supported by both government and Native entities and includes measures to reduce poaching. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) would address attempted international trade of unlawfully taken polar bears (or parts), and the MMPA would address attempted import into the United States of unlawfully taken animals or their parts. Subsistence hunting by natives in the United States is exempt from prohibitions under both the MMPA and the Act. Subsistence harvest does not require action under the Act to ensure its continuation into the future.

*Comment 20:* The Service should prohibit the importation into the United States of polar bear trophies taken in Canada, and should amend the MMPA to prohibit sport hunting of polar bears.

*Our response:* The polar bear is currently listed in Appendix II of CITES. Section 9(c)(2) of the Act provides that the non-commercial import of threatened and Appendix-II

species, including their parts, that were taken in compliance with CITES is not presumed to be in violation of the Act. Thus, an import permit would not ordinarily be required under the Act. We note that the MMPA does not allow sport hunting of polar bears within the United States. In addition, we note that, under the MMPA, the polar bear will be considered a "depleted" species on the effective date of this listing. As a depleted species, imports could only be authorized under the MMPA if the import enhanced the survival of the species or was for scientific research. Therefore, authorization for the import of sport-hunted trophies would no longer be available under section 104(c)(5) of the MMPA.

*Comment 21:* The Service failed to consider the negative impacts of listing on the long-term management of polar bears developed in Canada that integrates subsistence harvest allocations with a token sport harvest.

*Our response:* We acknowledge the important contribution to conservation from scientifically-based sustainable use programs. Significant benefits to polar bear management in Canada have accrued as a result of the 1994 amendments to the MMPA that allow U.S. citizens who legally sport-harvest a polar bear from an MMPA-approved population in Canada to bring their trophies back into the United States. These benefits include economic revenues to native hunters and communities; enhanced funding a support for research; a United States conservation fund derived from permit fees that is used primarily on the Chukchi Sea population; and increased local support of scientifically-based conservation programs. Without this program, there would be a loss of funds derived from import fees; loss of economic incentives that promote habitat protection and maintain sustainable harvest levels in Canada; and loss of research opportunities in Canada and Russia, which are funded through sport-hunting revenue. While we recognize these benefits, the Service must list a species when the best scientific and commercial information available shows that the species meets the definition of endangered or threatened. The effect of the listing, in this case an end to the import provision under Section 104(c)(5) of the MMPA, is not one of the listing factors. Furthermore, the benefits accrued to the species through the import program do not offset or reduce the overall threat to polar bears from loss of sea ice habitat.

*Comment 22:* The Service should promulgate an exemption under section

4(d) of the Act that would allow importation of polar bear trophies.

*Our response:* We recognize the role that polar bear sport harvest has played in the support of subsistence, economic, and cultural values in northern communities, and we have supported the program where scientific data have been available to ensure sustainable harvest. We again note that, under the MMPA, the polar bear will be considered a "depleted" species on the effective date of this listing. The MMPA contains provisions that prevent the import of sport-hunted polar bear trophies from Canada once the species is designated as depleted. A 4(d) rule under the Act cannot affect existing requirements under the MMPA.

*Comment 23:* The rights of Alaska Natives to take polar bears should be protected.

*Our response:* We recognize the social and cultural importance of polar bears to coastal Alaska Native communities, and we anticipate continuing to work with the Alaska Native community in a co-management fashion to address subsistence-related issues. Section 101(b) of the MMPA already exempts take of polar bears by Native people for subsistence purposes as long as the take is not accomplished in a wasteful manner. Section 10(e) of the Act also provides an exemption for Alaska Natives that allows for taking as long as such taking is primarily for subsistence purposes and the taking is not accomplished in a wasteful manner. In addition, non-edible byproducts of species taken in accordance with the exemption, when made into authentic native articles of handicraft and clothing, may be transported, exchanged, or sold in interstate commerce. Since 1987, we have monitored the Alaska Native harvest of polar bears through our Marking, Tagging and Reporting program [50 CFR 18.23(f)]. The reported harvest of polar bears by Alaska Natives is 1,614 animals during this nearly 20-year period, of which 965 were taken from the Chukchi Sea population and 649 were taken from the Southern Beaufort Sea population.

Alaska Natives' harvest of polar bears from the Southern Beaufort and Chukchi Seas is not exclusive, since both of these populations are shared across international boundaries with Canada and Russia respectively, where indigenous populations in both countries also harvest animals. Since 1988, the Inuvialuit Game Council (IGC) (Canada) and the North Slope Borough (NSB) (Alaska) have implemented an Inuvialuit-Inupiat Polar Bear Management Agreement for harvest of polar bears in the Southern Beaufort